State of California

AGENDA ITEM #6

Department of Justice
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M e m o r a n d u m

To : COMMISSIONERS
Delta Protection Commission

Date : March 5, 1999

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From : DANIEL L. SIEGEL Daniel L. Siegel
Supervising Deputy Attorney General
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Office of the Attorney General - Sacramento

Subject : Laws that Protect Recreational Boating

At the Commission's January 28, 1999 meeting, Commissioner Bill Curry requested information regarding laws that protect recreational boating in California. Attached please find two published opinions of this office which describe and analyze the laws regarding the public's right to use navigable waterways for recreational boating. (74 Ops.Cal.Atty.Gen. 174 and 80 Ops.Cal.Atty.Gen. 311.) During the Commission's next meeting, at the Commission's pleasure, I will summarize the opinions and answer any questions which you may have.

cc: Margit Aramburu
Executive Director (w/encls.)

> to the same test as that before a trial jury in a criminal case and probable cause may be found for the holding to answer although the evidence does not establish the defendant's guilt beyond a reasonable doubt. All that is required is a reasonable probability of the defendant's guilt. [Citations.] [¶] The Supreme Court in *Greenberg* v. *Superior Court, supra,* did not explain whether it thought that the same rule should apply in the case of an indictment as in the case of an information.... At least it indicated that no severer rule should be applied...."

Accordingly, we reaffirm that the standard of proof upon which a grand jury must indict is that found in the "probable cause" or "sufficient cause" test. When the Legislature spoke in section 939.8 of a grand jury finding an indictment, we believe it meant that an indictment should be returned if there is a "strong suspicion" that a crime has been committed and that the defendant committed it.

This determination is reinforced by section 995, which sets forth the same standard of judicial review to test the propriety of the action of a grand jury and that of a magistrate at a preliminary examination (or the sufficiency of an information). The uniform standard of judicial review indicates similar degrees of proof for the underlying actions.

In answer to the question presented, therefore, we conclude that the standard of proof a grand jury must use to indict under the provisions of section 939.8 is the same as that used by a magistrate at a preliminary examination: proof constituting reasonable or probable cause to believe that a public offense has been committed and that the defendant is guilty of committing it.

Opinion No. 91-306—September 26, 1991

Requested by: DIRECTOR, DEPARTMENT OF BOATING AND WATERWAYS

Opinion by: DANIEL E. LUNGREN, Attorney General
Clayton P. Roche, Deputy

THE HONORABLE WILLIAM H. IVERS, DIRECTOR, DEPARTMENT OF BOATING AND WATERWAYS, has requested an opinion on the following questions:

1. May a local agency prohibit personal watercraft on all navigable waters within its jurisdiction?

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2. Is a local agency required to provide the Department of Boating and Waterways with a justification for a proposed ordinance or regulation relating to vessels?

CONCLUSIONS

1. A local agency may prohibit personal watercraft on all navigable waters within its jurisdiction if the use of personal watercraft is incompatible with one or more other public uses on such waters and the ban is nondiscriminatory as to personal watercraft.

2. A local agency is not required to provide the Department of Boating and Waterways with a justification for a proposed ordinance or regulation relating to vessels.

ANALYSIS

"Personal watercraft" are small vessels propelled by an inboard engine which powers a jet pump. Their characteristics vary from manufacturer to manufacturer. They may be designed for persons standing or sitting and are highly maneuverable, have a shallow draft, and cause less wake than the usual motorboat. They have no propeller to endanger swimmers and must avoid shallow water where vegetation could clog their jets. Personal watercraft are used for recreational purposes and increasingly by state and local law enforcement officials for patrol and rescue activities.

Personal watercraft are classified by the United States Coast Guard as "Class A Motorboats," that is, motorized vessels less than 16 feet in length. (46 C.F.R. § 24.10-17 (1990).) In 1988 the Coast Guard reported to Congress that personal watercraft were no "more or less dangerous to operate than most other small powerboats."

1. Prohibition of Personal Watercraft

The first question presented for resolution is whether a local agency may completely ban the use of personal watercraft on all navigable waters within its jurisdiction. For our purposes "local agency" means a city, county, or a special district which has been given equivalent powers of regulation with respect to the use of navigable waters. (See Harb. & Nav. Code, § 660, subd. (a).)[1] We conclude that under narrowly drawn circumstances, such a prohibition would be valid.

Article XI, section 7 of the California Constitution grants cities and counties the power to "make . . . all local, police, sanitary, and other ordinances and regulations not in conflict with general laws." This constitutional grant of "police powers" to cities and counties is exercisable within their territorial

[1] All section references hereafter are to the Harbors and Navigation Code.

jurisdictions and is as broad as that possessed by the Legislature, subject to being displaced by general laws. (*Birkenfeld* v. *City of Berkeley* (1976) 17 Cal.3d 129, 140.)

With respect to boating activities, section 268 provides that "[c]ounties or cities may adopt restrictions concerning the navigation and operation of vessels and water skis, aquaplanes, or similar devices subject to the provisions of subdivision (a) of Section 660 . . . " upon "all waters which are in fact navigable." Subdivision (a) of section 660 in turn provides:

> "The provisions of this chapter, and of other applicable laws of this state, shall govern the use, equipment, and all other matters relating thereto whenever any boat or vessel shall be used on the waters of this state, or when any activity regulated by this chapter shall take place thereon. Nothing in this chapter shall be construed to prevent the adoption of any ordinance, law, regulation or rule relating to vessels by any entity otherwise authorized by law to adopt such measures, including but not limited to any city, county, city and county, port authority, district or state agency; *provided, however, that such measures relating to boats or vessels shall pertain only to time-of-day restrictions, speed zones, special-use areas, and sanitation and pollution control*, the provisions of which are not in conflict with the provisions of this chapter or the regulations adopted by the department. Such measures shall be submitted to the department prior to adoption and at least 30 days prior to the effective date thereon." (Emphasis added.)[2]

It is to be noted that personal watercraft meet the definition of both a "boat" and a "vessel" for purposes of section 660. (See § 651.)

More significant for our purposes is the definition of "special use area" found in subdivision (u) of section 651. That subdivision provides: "'Special use area' means all or a portion of a waterway that is set aside for specified uses or activities to the exclusion of other incompatible uses or activities."[3]

No state law either prohibits or allows the complete ban of personal watercraft on navigable waters.[4] It is evident from the language of section 660 that a local agency could prohibit the use of personal watercraft with respect

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[2] The "department" is the Department of Boating and Waterways ("Department"). (§ 32.) Section 660 will be amended by chapter 126 of the Statutes of 1991; the amendments will not effect the conclusions reached herein.

[3] Subdivision (u) was enacted subsequent to our opinions in 45 Ops.Cal.Atty.Gen. 122 (1965) and 63 Ops.Cal.Atty.Gen. 874, 876 (1980) which suggested that a "special use area" must be limited to a portion of a waterway.

[4] Thus, for example, no ban could be justified on the basis that such watercraft are inherently dangerous to the operator.

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to the time of day or area of their use.[5] As to the area of use, the operation of personal watercraft must in fact be incompatible with one or more other public uses in the area. We believe that such a showing would also be subject to the following general principles: (1) under the guise of the police power, a local agency may not completely prohibit what is otherwise lawful, (2) it may not unreasonably discriminate between objects which are similarly situated under the law, and (3) restrictions placed upon the recreational use of navigable waters are not favored.

In 63 Ops.Cal.Atty.Gen. 874 (1980), we had occasion to apply section 660, concluding that a city could not adopt an ordinance requiring each boat owner to be covered by a liability insurance policy naming the city as an additional insured. In analyzing section 660 and other relevant statutes in relationship to the city's police powers, we noted:

> "The usual restrictions and limitations placed upon the exercise of [the state's] police powers would of course be applicable to a city's authority, ensuring that the 'means employed to protect the public health, safety, and general welfare *are not arbitrary or discriminatory* and are reasonably designed to achieve protection of legitimate public interests [Citations].' (45 Ops.Cal.Atty.Gen. 122, 127 (1965).)" (*Id.*, at p. 875, emphasis added.)

Subsequently in 68 Ops.Cal.Atty.Gen. 268 (1985), we concluded that the Legislature could not prohibit public use of navigable waters on private property for the purposes of hunting waterfowl. We discussed at length the constitutional right of the people (Cal. Const., art. X, § 4) to use the navigable waters of the state for recreational and other purposes. We noted that "[i]n general the Legislature may not 'divest the people of the State of their rights in navigable waters of the state.'" (*Id.*, at p. 272.) *A fortiori*, neither may a local agency.

Finally in 72 Ops.Cal.Atty.Gen 149 (1989), we addressed the application of section 660 to a city proposal requiring insurance of boat owners using navigable waters. In concluding that the plan would violate both the constitutional right of access to navigable waters and the regulatory grant of powers under section 660, we relied heavily upon the case of *People ex rel Younger* v. *County of El Dorado* (1979) 96 Cal.Ap.3d 403. In the *El Dorado* case the court invalidated a complete ban on boating on a 20 mile section of the American River, a navigable waterway. In concluding that the ban was an unreasonable exercise of the county's police powers, the court stated in the context of section 660:

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[5] No indication has been given that personal watercraft would require regulation with respect to sanitation or pollution control.

"The ordinance is neither a permissible special-use area designation nor a reasonable sanitation and pollution control measure. On its face, it is an absolute prohibition against boating by the public. The record shows that the affected section of the river is not a significant fishing stream, and partly because of restricted access, fishing is light. Swimming in whitewater areas without such artificial means as life jackets is obviously neither popular nor safe. Thus the ordinance effectively bans virtually all public use of the river.

"However laudable its purpose, *the exercise of police power may not extend to total prohibition of activity not otherwise unlawful.* [Citations.] Courts are especially sensitive to infringements upon constitutional rights under the guise of exercise of police power. [Citation.] The public's right of access to navigable streams is a constitutional right. [Citations.]" (*Id.* at p. 406, emphasis added.)

In the recent case of *City of Redwood City* v. *Dalton Construction Co.* (1990) 221 Cal.App.3d 1570, 1573, the court drew the following distinction between a regulation and a prohibition:

"... The distinction between a regulation and a prohibition is well understood in municipal law. [Citation.] The term 'prohibit' means '[t]o forbid by law; to prevent; - not synonymous with "regulate."' [Citation.] The term 'regulate' means 'to adjust by rule, method, or established mode; to direct by rule or restriction; to subject something to governing principles of law. It does not include a power to suppress or prohibit [citation].' [Citation.]"

In light of the foregoing, we believe that a complete ban on the use of personal watercraft by a local agency would only be valid in limited instances. (See 45 Ops.Cal.Atty.Gen. 122, 126–127 (1965).)[6] The prohibition would be authorized if (1) the use of personal watercraft on *all* navigable waters under the agency's jurisdiction is incompatible with one or more other public uses and (2) such ban is neither arbitrary nor discriminatory as to personal watercraft, e.g., the ban applies to other incompatible motorized vessels as well.

2. Justification For Proposed Regulations

The second question presented is whether a local agency is required to provide the Department with a justification for a proposed ordinance or regulation relating to vessels. The question arises by virtue of the following sentence of subdivision (a) of section 660, previously quoted: "Such measures

[6] In our 1965 opinion, we discussed whether a county could ban motorboats on a limited area of the American River in favor of "non-powered" recreational uses, such as, swimming, wading, fishing, canoeing, and skindiving. Environmental and physical considerations indicated that the area was not safe or well-suited for motorboats.

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shall be submitted to the department prior to adoption and at least 30 days prior to the effective date thereof."

We see nothing in the language of the statute which *requires* a local agency to justify a proposed regulation. In 45 Ops.Cal.Atty.Gen. 122 (1965), we concluded that any adverse comments or recommendations made by the Division of Small Craft Harbors, the Department's predecessor (§ 50), pursuant to section 660 "are solely for the advice and information of the [local agency] in consideration of its proposed action." (*Id.*, at p. 126.) We analyzed the reasons for notifying the Department as follows:

> "[Section 660] neither requires nor contemplates any recommendation by the division for or against the adoption of ordinances thereunder (cf. Ed. Code § 15005) nor does it provide or imply that the validity or enforcement of such ordinances would in any way be impaired by any adverse comment by the division as to ordinances submitted to it. *Cf. Gogerty* v. *Coachella Valley Junior College Dist.*, 57 Cal.2d 727 (1962). In fact, the provision that such ordinances be submitted to the division 'at least 30 days prior to the effective date thereof' strongly suggests that such ordinances may be adopted and go into effect subsequent to its being submitted irrespective as to what the division's comments may be.
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> "The purpose of the provision requiring submission of local ordinances to the division prior to the dates of their adoption and going into effect appears to furnish a means by which the division, and through it the Small Craft Harbors Commission as well as the Department of Parks and Recreation (see § 662), may be informed of pending local legislation in the field of boating in sufficient time for these agencies to take appropriate action.
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> "The Legislature has conferred broad responsibilities on the Small Craft Harbors Commission and its administrative arm, the Division of Small Craft Harbors, in implementing by rules and regulations statutes regulating equipment and operation of vessels in this State. §§ 652, 659, 660, and 669. This authority is subject to the policy limits of section 650 ' . . . to promote safety for persons and property in and connected with the operation and equipment of vessels and to promote conformity of laws relating thereto.' It is reasonable that to enable these state agencies to effectively carry out this authority and policy, the Legislature should afford a means by which they may be advised of pending local legislation.
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> "Action by these state agencies on such proposed legislation may consist of calling the local agency's attention to conflicting state or federal measures which may invalidate the local ordinance. It may constitute advice, as in the present case, as to considerations of

reasonableness or policy which because of the division's expertise on the subject of boating regulation it may wish to pass along for further consideration by the local governmental body. The commission may deem the matter of such general importance that it may wish to take immediate steps, act within its own authority to adopt statewide regulation on the subject, or refer the matter for appropriate legislative action. Where lack of uniformity of regulation would result as between two or more local governmental bodies as to the same body of water, the commission may take action for adoption of regulations under subdivision (b) of section 660. Adoption by the commission of a regulation, or enactment by the Legislature of a statute, creating a conflict with the ordinance would, of course, supersede and invalidate the local measure. *Pipoly* v. *Benson*, 20 Cal.2d 366 (1942). Local emergency measures adopted in view of disaster or public calamity may require special attention under subdivision (c) of section 660, which expressly requires division authorization for such emergency regulations to be given effect for longer than sixty days." (*Id.*, at p. 125.)

In answer to the second question, therefore, we conclude that while a local agency must provide the Department with notification of the terms and conditions of a proposed ordinance or regulation relating to vessels pursuant to section 660, it is not required to furnish a justification for the ordinance or regulation.

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Finally, we note that a district superintendent is an "employee" under the terms of section 54957. (See also *Lucas* v. *Board of Trustees* (1971) 18 Cal.App.3d 988, 990; 50 Ops.Cal.Atty.Gen. 532 (1976).)[4]

Hence, the council's sessions held to interview candidates for the office of district superintendent and to arrive at a recommendation for the board come within the closed session provisions of section 54957. This conclusion is not inconsistent with our conclusion in 46 Ops.Cal.Atty.Gen. 34 (1965), in which we determined that a closed session may not be held where selected members of the public are allowed to attend. (*Id.*, at p. 35.) In the matter presently considered, no "members of the public" will be in attendance, only members of the legislative body itself and the candidates for the office of district superintendent.[5]

We conclude that where the board of trustees of a school district has formed a committee, known as the district liaison council, consisting of eight representatives from the community, seven employees of the district, and one student, to interview candidates for the office of district superintendent and to make a recommendation to the board, the sessions of the committee held to perform such delegated duties are not required to be open to members of the public. Such closure allows the council members to candidly question the candidates as to their qualifications and to freely discuss each's qualifications without subjecting the candidates to public embarrassment.

Opinion No. 97-307—November 12, 1997

Requested by: THE DEPARTMENT OF BOATING AND WATERWAYS

Opinion by: DANIEL E. LUNGREN, Attorney General
Anthony M. Summers, Deputy

THE DEPARTMENT OF BOATING AND WATERWAYS has requested an opinion on the following question:

Does the Department of Boating and Waterways have the authority to close navigable waters to recreational boaters during periods of emergency, such as flood conditions?

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[4] In 68 Ops.Cal.Atty.Gen. 34, *supra*, we addressed the distinction between an officer and an employee for purposes of the open meeting laws then applicable to state agencies. Here, it must be conceded that the district superintendent is an "employee" for purposes of the Act.

[5] It may also be observed, for example, that witnesses may attend closed sessions to present factual information to the legislative body; they would not be present as "members of the public" but rather as percipient witnesses.

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CONCLUSION

The Department of Boating and Waterways has the authority to close navigable waters to recreational boaters during periods of emergency, such as flood conditions, when such emergency rules and regulations are required to insure the safety of persons and property.

ANALYSIS

In January of 1997, the waters of the San Joaquin-Sacramento Delta flooded areas of the state that are normally protected by a system of levees. The question presented for resolution is whether the Department of Boating and Waterways ("Department") may close navigable waterways to recreational boaters during times of emergency. We conclude that it may.

Preliminarily, we must address whether, and under what conditions, the state may limit, restrict, or close "navigable waters." (Harb. & Nav. Code, § 36.)[1] Only if the state has such authority will it be necessary to determine whether the Department may do so on behalf of the state. The state recognizes the paramount authority of the United States over navigable waters and applies its regulations to navigation on such waters only insofar as the regulations do not conflict with the admiralty and maritime jurisdiction and laws of the United States. (§ 240.)

A state may exercise its police powers in regulating the use of navigable waters within its borders in the absence of conflicting federal authority. (*Huron Portland Cement Co.* v. *City of Detroit* (1960) 362 U.S. 440; *Kelly* v. *Washington* (1937) 302 U.S. 1; *Escanaba Etc. Co.* v. *Chicago* (1882) 107 U.S. 678; *Gibbons* v. *Ogden* (1824) 9 U.S. (Wheat.) 1; *Atwood* v. *Hammond* (1935) 4 Cal.2d 31, 43–44; 45 Ops.Cal.Atty.Gen. 122 (1965).) The existence of the paramount power of the federal government does not destroy the "concurrent and subordinate power and authority of the state to regulate and control" navigable waters. (*People* v. *California Fish Co.* (1913) 166 Cal. 576, 600.)

While the state may regulate navigable waters insofar as federal law is concerned, the California Constitution places its own restrictions upon the state's control over navigable waters. Article X, section 4 of the Constitution guarantees members of the public a right of access to the navigable waters of the state. The state acquired title to the navigable waters in its territory upon its admission to the union (*Hardin* v. *Shedd* (1903) 190 U.S. 508, 519; *Pollard's Lessee* v. *Hagan* (1845) 44 U.S. (3 How.) 212, 229; 43

[1] References hereafter to the Harbors and Navigation Code are by section number only.

Ops.Cal.Atty.Gen. 291, 292 (1964)) and the navigable waterways are held in trust for the benefit of the people. This includes all waters navigable in fact. (*Illinois Central Railroad Co.* v. *Illinois* (1892) 146 U.S. 387; *State of California* v. *Superior Court (Lyon)* (1981) 29 Cal.3d 210, 226–232; *City of Berkeley* v. *Superior Court* (1980) 26 Cal.3d 515.)

The public's right to use navigable waterways includes their use for boating and recreation; indeed, waters capable of use for recreational boating are deemed navigable. (*People* ex rel. *Baker* v. *Mack* (1971) 19 Cal.App.3d 1040.) The public may use flood and overflow waters if they are navigable. (*Bohn* v. *Albertson* (1951) 107 Cal.App.2d 738.) The public's right to use navigable waters for boating and recreation is not only guaranteed by the Constitution, it is also guaranteed by the Legislature (Gov. Code, § 39933), and the right is inherent in the public trust under which the navigable waters are held. (See *Marks* v. *Whitney* (1971) 6 Cal.3d 251; *People* v. *California Fish Co.*, *supra*, 166 Cal. at 598–599; 79 Ops.Cal.Atty.Gen. 133, 135–146 (1996).)

The state may not "divest the people of the State of their rights in navigable waters of the state. . . ." (*People* v. *Gold Run D. & M. Co.* (1884) 66 Cal. 138.) We have previously determined that the Legislature may not prohibit the use of navigable flood waters for hunting, since the right of navigation includes the right to hunt from a boat. (68 Ops.Cal.Atty.Gen. 268 (1985).) As the Court of Appeal noted in *People* ex rel. *Younger* v. *County of El Dorado* (1979) 96 Cal.App.3d 403, 406, when considering the validity of a ban on river rafting:

> "However laudable its purpose, the exercise of the police power may not extend to total prohibition of activity not otherwise unlawful. . . . Courts are especially sensitive to infringements upon constitutional rights under the exercise of police power. [Citation.] The public's right of access to navigable streams is a constitutional right. [Citations.]"

While these constitutional provisions, statutes, and cases compel us to give close scrutiny to any restriction or limitation on the public's right of access to navigable waters, they do not foreclose all regulation. For example, the public's navigation rights may be impaired in a specific instance if the purpose of the restriction is to promote the overall use of navigable waters. (*City of Berkeley* v. *Superior Court*, *supra*, 26 Cal.3d at 523–526; *People* v. *California Fish Co.*, *supra*, 166 Cal. at 598–599.) Moreover, when there are competing trust uses, the state may prefer one use over another. (*Carstens* v. *California Coastal Com.* (1986) 182 Cal.App.3d 277, 289 ["We find nothing in Article X, section 4, to preclude the [California Coastal]

Commission from considering commerce as well as recreational and environmental needs in carrying out the public trust doctrine"].)

We believe that the governmental interests in addressing public safety during an emergency are significantly different from those involved in a permanent closure of a waterway, and so would be the infringement on the public's navigation rights. Emergency situations give rise to reasonable regulations in the interests of the safety and welfare of the people. (See 45 Ops.Cal.Atty.Gen., *supra,* at 128.) Here, a temporary closure of navigable waterways by the state to recreational boaters during an emergency may be upheld to protect the boat owners, prevent damage to the levees, and assure access and safety for the vessels engaged in rescue and repair operations. (See *Martin* v. *Municipal Court* (1983) 148 Cal.App.3d 693, 697.) We conclude that the state may close navigable waterways to recreational boaters during an emergency.

We next consider whether the Department has been granted the authority to close navigable waterways to recreational boaters during times of emergency. Subdivision (c)(1) of section 660 provides:

> "Any entity, including but not limited to any county, city, port authority, district, or state agency, otherwise authorized by law to adopt measures governing the use and equipment, and matters relating thereto, of boats or vessels, may adopt emergency rules and regulations which are not in conflict with the general laws of the state relating to boats and vessels using any waters within the jurisdiction of the entity if those emergency rules and regulations are required to insure the safety of persons and property because of disaster or other public calamity."

The Department qualifies as a "state agency" for purposes of section 660, as well as "any entity." It is "authorized by law to adopt measures governing the use and equipment, and matters relating thereto, of boats and vessels." (§ 660, subd. (c)(1).) Section 655.3 authorizes the Department to issue regulations regarding "the use of vessels on the waters of this state," which it has done. (See Cal. Code Regs., tit. 14, §§ 6600–6697; see also § 651.5.) The Department is also "authorized by law to adopt measures governing the . . . equipment and matters relating thereto, of boats and vessels." (§ 660, subd. (c)(1).) Section 652 authorizes the Department to issue regulations concerning the installation, carrying, and using of equipment on boats and vessels, which it has done. (See Cal. Code Regs., tit. 14, §§ 6550–6576.) The only remaining requirements for the emergency regulations are that they be consistent with state law and adopted "to insure the safety of persons and property because of disaster or other public

calamity." (§ 660, subd. (c)(1).) If these conditions are met, the Department is authorized by section 660 to close navigable waterways during periods of emergency.

Finally, we note that under the California Emergency Services Act (Gov. Code, §§ 8550–8668), the Governor may declare a state of emergency to deal with "conditions of disaster or of extreme peril to the safety of persons and property," including flood conditions. (§ 8558, subds. (b), (c); see *Martin* v. *Municipal Court, supra*, 148 Cal.App.3d at 696–697.) The Office of Emergency Services is responsible for coordinating the activities of all state agencies, including the Department, in such emergency situations. (Gov. Code, § 8587.)

We conclude that the Department has the authority to close navigable waters to recreational boaters during periods of emergency, such as flood conditions, when such emergency rules and regulations are required to insure the safety of persons and property.

Opinion No. 97-502—November 12, 1997

Requested by: COUNTY COUNSEL, SAN LUIS OBISPO COUNTY

Opinion by: DANIEL E. LUNGREN, Attorney General
Clayton P. Roche, Deputy

THE HONORABLE JAMES B. LINDHOLM, COUNTY COUNSEL, SAN LUIS OBISPO COUNTY, has requested an opinion on the following question:

May the electorate of a general law county enact through the initiative process an ordinance that would require a vote of the people for (1) any closure, sale, or lease of a county hospital, (2) any action transferring the management of a county hospital from the board of supervisors to another entity, or (3) any reduction or elimination of medical services at a county hospital?

CONCLUSION

The electorate of a general law county may not through the initiative process enact an ordinance that would require a vote of the people for (1) any closure, sale, or lease of a county hospital, (2) any action transferring the management of a county hospital from the board of supervisors to another entity, or (3) any reduction or elimination of medical services at a county hospital.

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